

LAKE COUNTY BOARD of ADJUSTMENT
August 10, 2011
Meeting Minutes

MEMBERS PRESENT: Clarence Brazil, Sue Laverty, Mike Marchetti, Tim McGinnis, Paul Grinde

STAFF PRESENT: Joel Nelson, Robert Costa, Lita Fonda

Mike Marchetti called the meeting to order at 4:02 pm

Motion made by Clarence Brazil, and seconded by Sue Laverty, to approve the July 13, 2011 meeting minutes. Vote unanimous to approve minutes.

Tim McGinnis suggested changing the order of the agenda to put the Irwin item first, since the Irwins were the only members of the public in attendance. Joel thought this would be great. Hearing no objections, Mike switched the order.

IRWIN VARIANCES & CONDITIONAL USES—FINLEY POINT

Joel Nelson presented the staff report for LaDana Hintz. (See attachments to minutes in the August 2011 meeting file for staff report.) On pg. 19 and 20, Joel observed that condition #16 said essentially the same thing as condition #17. For condition #16 on pg. 33, Joel suggested omitting “Staff would also recommend that” from the condition. For condition #23 on pg. 34, he corrected ‘the 6-month deadline’ to ‘the one-year deadline’.

Sue asked for some clarification on the change to #23. Joel clarified.

Jeff Gallatin spoke on behalf of the applicant. He asked if the Board could look at #14 (pg. 19) and consider allowing the request for a laundry. He mentioned that Shawn Rowland was doing the engineered sanitation improvements for this building.

Stephen Irwin spoke on behalf of his application. They wanted to build low impact and blend in with the natural surroundings, both from the lake and from the road.

Clarence asked if a laundry was something the Board could grant in this case. Joel explained that it wasn’t a condition. The staff report just pointed out there was a DEQ (Department of Environmental Quality) approval to comply with. Tim said it wasn’t really a BOA item. It wasn’t a condition. It was just in the staff discussion. Jeff asked for further clarification. Joel mentioned DEQ review and dependent units. A guest house needed to be deemed a dependent dwelling unit. A typical requirement [for] Lake County policy through the Environmental Health office and the County Commissioners was you could have a dependent dwelling unit if it didn’t have kitchen or laundry facilities. He thought it might take a DEQ rewrite or waiver to change that. Environmental Health requirements have to be satisfied before they got a permit. Mike summarized that the Board wasn’t saying no. They were saying they couldn’t say yes. Joel thought it was important to acknowledge [the DEQ approval].

Clarence didn't see anything wrong with the proposal. Sue asked about open-ended approval from the Board without a setback figure into the 50' from the water. She couldn't recall seeing an open-ended approval like that before. Typically the Board didn't do this. Joel agreed it was a little different. They would be limited to what they had proposed. Whether the distance from the lake was 42' or 25' wasn't known. He thought it was probably pretty close to the 42'. Clarence said he was comfortable letting the Planning Staff make a decision on that. Joel thought that the findings would be the same if the Board found this a reasonable development and use of the property. Sue checked that it would be out of the lakeshore protection area of 20'. Joel affirmed. She asked if that was covered here. Joel said that was one of the main things he and LaDana discussed.

Mike said even if they approved this, and the survey came back to say they were at 19', the BOA approval would be dismissed at that point, because it would then fall on someone else's jurisdiction. Joel thought they'd be able to pull it back a couple of feet. He described that if someone wanted to build 15 feet from the lake, this board would approve the zoning variance and the applicant would also have to go to the County Commissioners to get a lakeshore variance.

Public comment opened: No public available. *Public comment closed.*

Motion made by Clarence Brazil, and seconded by Paul Grinde, to approve the variances and conditional uses and adopt staff suggested findings of fact, to impose the conditions on the project as recommended by the staff with corrections as proposed by the staff. Motion carried, all in favor.

EC LILLJORD HOLDINGS LTD. ET AL CONDITIONAL USE—FINLEY POINT:

Joel Nelson presented the staff report for Karl Smithback. (See attachments to minutes in the August 2011 meeting file for staff report.) On pg. 9 in #4, Joel thought it should read 'the Planning Department and the Environmental Health Department'. On pg. 14, condition #6, he suggested that the condition be clarified to make it clear whether or not the owner was expected to come back to the Board of Adjustment if they install an on-site septic system to serve the RV's.

On pg. 9 in #4, Paul asked about the zoning conformance application. Was it still in process? Joel replied it was on hold. It was an incomplete application in the Planning offices. Paul asked when a residence was built, did that change the status of the 3 RV's. Joel pointed to condition #1, which discussed that this conditional use approval would sunset on the transfer of the property or upon completion of construction of a residence on the subject property. Paul checked that he could still have one guest house if a house was built. Joel said he could, as a permitted use if [the guest house] were under 1000 square feet. If it were over 1000 square feet, he'd have to come to the Board and get a conditional use. To use the RV's they'd have to do this [process] again and get a clarification from this Board. He didn't think they'd ever deemed an RV a guest house,

because it fell under 'temporary dwelling'. So long as it was a temporary dwelling, it could be used 6 months. A guest house could be used for 30 days.

Clarence asked if there was a way to make sure these were removed after 6 months. Joel said [staff] probably would check, since they drive by this property frequently. It would not necessarily be to the day. He thought they'd do some sort of check. Otherwise, they'd rely on neighbors reporting it. Sue added the honesty of the owner in doing what he was supposed to do might happen. Clarence asked if the RV's could be moved within the lot and covered, or if they had to be removed from the lot. Joel said they had to be removed from the lot. Sue noted they had to be gone for 6 months. Joel agreed, and read that portion.

On #6, Sue asked what should happen to clarify the condition. Joel asked if the Board expected the applicants to come back if the RV's were to be connected. Right now, they'd have to take them into town to dump into an approved facility or have someone come out and pump them. Mike said they'd have to go through DEQ for septic approval for the dwelling. Tim and Joel outlined that they might decide to put in a system to hook the RV's into. Tim asked why they would come to the Board. Joel said that was the question. Sue said it would be more of a permanent type. Tim said he's like to see the [applicants] if they were going to put in a permanent sewer system to service the RV's, if it was in the Board's jurisdiction to do this. Joel said their proposal was that they weren't connected to water and they weren't building a sewer system at this time for the RV's. It was kind of a quandary because you wanted them to have facilities. It was more likely that they would properly dispose of effluent if they had an onsite sewage disposal system, as opposed to taking it to a neighbor's RV dump, which wouldn't be set up for 3 additional RV's coming and going.

Joel said the applicants didn't get their letters in Canada in time to get to the meeting. He spoke with one of the applicants today, who said they have no problem with moving the port-a-potty. They could not speak to the conditions since they didn't get the staff report in time. He had no idea what their position was on the conditions.

Mike said a septic permit would go through Environmental Health for approval. He checked that it would then go to Planning staff. Joel said they would have an opportunity to weigh in. Tim was confused what the applicant would need from the Board that was within their jurisdiction. Joel didn't think the presence or absence of septic facilities would affect the findings. Regardless, it was addressed that they need to use approved facilities. Mike said condition #6 was that they couldn't hook up unless Environmental Health approved it. He thought that covered what the Board was trying to get at here. The applicants couldn't just go put something in. Joel said he just wanted to be sure to address exactly what was expected of the applicants here, and whether or not the Board of Adjustment expected them to not have sewer or to have sewer. It's a change to what the Board might approve.

Sue thought it was clear there would be no water or sewer without Environmental Health's approval. By the Board saying this was one of the conditions, it appeared the

Board was saying right now the applicants couldn't hook up to water or sewer, but if they got DEQ's approval, they could. The Board didn't have an objection to that. Joel said that this was what [the condition] said right now. Mike said the reality was if DEQ said no, the Board wouldn't say yes, and if DEQ said yes, the Board wouldn't say no. He wasn't sure the Board could.

Joel checked that the applicants didn't have to come back to the Board if they decided to connect. Tim said before he would do that, he'd want them to notify the Planning staff to determine whether or not this needed to come before the Board again. Paul checked there would still be [language about] 'temporary' with the '6 months', and so forth. Joel said it would still have to be removed for 6 months. Mike was comfortable with the words as they were. Sue agreed, or perhaps one line about having the facilities there that had already been approved. Joel said the system would have to comply with county standards and requirements. The findings of facts indicated they could. He read from the findings [pg. 12, finding #5].

No agents, owners or public present to comment.

Motion made by Tim McGinnis, and seconded by Sue Lavery, to approve the conditional use with findings of facts, staff report and conditions as proposed by staff. Motion carried, all in favor.

OTHER BUSINESS

A variety of topics were mentioned generally.

Mike Marchetti adjourned the meeting at 4:56 pm.